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राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश शासन द्वारा प्रकाशित

शिमला, शुक्रवार, 30 दिसम्बर, 1960/9 पौष, 1882

HIMACHAL PRADESH ADMINISTRATION

INDUSTRIES DEPARTMENT

NOTIFICATION

Simla-4, the 25th November, 1960

No. I & S. Admn. 15-(Lab.-Rules)-172/59.—In exercise of the powers conferred by sub-section (2) of section 26 of the Payment of Wages Act, 1936, the Lieutenant Governor, Himachal Pradesh is pleased to make the following rules, the same having been previously published *vide* notification of even number dated the 19th March, 1960 as required by the said section, namely:

HIMACHAL PRADESH PAYMENT OF WAGES RULES

1. *Title.*—These rules may be called the Himachal Pradesh Payment of Wages Rules, 1959.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

- (a) “the Act” means the Payment of Wages Act (IV) of 1936;
- (b) “the authority” means the authority appointed under sub-section (1) of section 15 of the Act;
- (c) “the Chief Inspector of Factories” means the Chief Inspector of Factories appointed under sub-section (2) of section 10 of the Factories Act (XXV of 1934);
- (d) “the court” means the court mentioned in sub-section (1) of section 17 of the Act;
- (e) “deduction for breach of contract” means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;
- (f) “deduction for damage or loss” means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7;
- (g) “Form” means a form appended to these rules;
- (h) “Inspector” means the Inspector authorized by or under section 14 of the Act;
- (i) “person employed” excludes all persons to the payment of whose wages the Act does not apply;
- (j) “section” means a section of the Act;
- (k) “paymaster” means an employer or other person responsible under section 3 of the Act for the payment of wages;
- (l) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

Section 26 (3) (a)

3. *Register of Fines.*—(1) In any Factory/Industrial Establishment in respect of which the employer has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form I.

(2) At the beginning of the Register of Fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is made.

4. *Register of deductions for damage or loss.*—In every Factory/Industrial Establishment in which deductions for damage or loss are made the paymaster shall maintain the Register required by sub-section (2) of section 10 in Form II of the Act in Form II to these Rules.

5. *Register of Wages.*—A Register of Wages shall be maintained in every Factory/Industrial Establishment and may be kept in such form as the paymaster

finds convenient but shall include the following particulars:—

- (a) the gross wages earned by each person employed for each wage period;
- (b) all deductions made from those wages, with an indication in each case of the clause of sub-section (2) of section 7 under which the deduction is made;
- (c) the wages actually paid to each person employed for each wage period.

6. *Maintenance of Registers.*—The registers required by rules 3, 4, 5 and 17 shall be preserved for twenty-four months after the date of the last entry made in them.

Section 26 (3) (c)

7. *Weights and Measures.*—(1) All weights, measures, or weighing machines which are used in checking, or ascertaining the wages of persons employed in any Factory/Industrial Establishment shall be examined at least biennially by an Inspector who may prohibit the use of any weight, measure, or weighing machine which he finds to register incorrectly.

(2) If the Inspector considers that any action should be taken under the Indian Weights and Measures of Capacity Act (XXXI of 1871), or the Indian Penal Code (XLV of 1860), he may seize the article in question and shall record his opinion and send it to the District Magistrate for such action as he may think fit.

Section 26 (3) (d)

8. *Notice of dates of payment.*—The paymaster shall display, in conspicuous place at/or near the main entrance of the Factory/Industrial Establishment a notice, in English and Hindi, giving for not less than two months in advance, the days on which wages are to be paid.

Section 26 (3) (e), (f) and (h)

9. *Prescribed authority.*—The Labour Commissioner shall be the authority competent to approve, under sub-section (1) of section 8, of the Act, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8, of the Act, the purposes on which the proceeds of fines shall be expended.

10. *Application in respect of fines.*—Every Employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Labour Commissioner,—

- (a) a list, in English, in duplicate, clearly defining such acts and omissions;
- (b) in cases where the employer himself does not intend to be the sole person empowered to impose fines, a list, in duplicate showing those appointments in his Factory/Industrial Establishment of which the incumbents may pass orders imposing fines and the class of establishment on which the incumbent of each such appointment may impose fine.

11. *Approval of list of acts and omissions.*—The authority appointed under rule 9 on receipt of the lists prescribed in the preceding rule may, after such enquiry as he considers necessary, pass orders either—

- (a) disapproving the lists;
- (b) approving the lists either in their original form or as amended by him, in which case such lists shall be considered to be approved lists, provided that no order disapproving or amending any lists

shall be passed unless the employer shall have been given an opportunity of showing cause, orally or in writing why the lists as submitted by him should be approved.

12. *Posting of list.*—The employer shall display at or near the main entrance of the Factory/Industrial Establishment a copy in English, together with a literal translation thereof, in Hindi of the list approved under rule 11.

13. *Persons authorised to impose fines.*—No fine may be imposed by any person other than an employer or a person holding an appointment named in a list submitted under rule 10.

14. *Procedure in imposing fines and deductions.*—Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss shall explain personally to the said person the act or omission, or damage or loss, in respect of which the fine or deduction is proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and shall hear his explanation in the presence of at least one other person.

15. *Information to paymaster.*—The person imposing a fine or directing the making of a deduction for damage or loss shall at once inform the paymaster of all particulars, so that the register prescribed in rule 3 or rule 4 may be duly completed.

Section 26 (3) (g)

16. *Deduction for breach of contract.*—(1) No deduction for breach of contract shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No deduction for breach of contract shall be made from the wages of any employed person unless:—

(a) there is provisions in writing forming part of the terms of the contract of employment requiring him to give notice of the termination of his employment; and

(i) the period of this notice does not exceed fifteen days or the wage period, whichever is less; and

(ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment;

(b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the factory and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;

(c) a notice has been displayed at or near the main entrance of the factory giving the names of the persons from whom the deduction is proposed to be made, the number of days wages to be deducted and the conditions (if any) on which the deduction will be remitted:

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections of the factory, it shall be sufficient, in lieu of giving the names of the persons in such departments or sections, to specify the departments or sections affected.

(3) No deduction for breach of contract shall exceed the wages of the persons employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2) no deduction for breach of contract shall be made from any person who has complied with these conditions.

Section 26 (3) (i)

17. *Advances.*—(1) An advance of wages not already earned shall not, without the previous permission of Inspector, exceed an amount equivalent to the wages earned by the employed person during the preceding two calendar months, or if he has not been employed for that period, twice the wages he is likely to earn during the two subsequent calendar months.

(2) The advance may be recovered in instalments by deductions from wages spread over not more than twelve months. No instalments shall exceed one-third, or where the wages for any wage-period are not more than twenty rupees, one-fourth of the wages for the wage-period in respect of which the deduction is made.

(3) The amount of all advances sanctioned and the repayments thereof shall be entered in a register in Form III.

Section 26 (3) (a)

18. *Annual Return.*—In respect of every factory subject to the Payment of Wages Act, a return shall be sent in Form IV so as to reach the Labour Commissioner not later than the 15th of February following the end of the calendar year to which it relates.

Section 26 (3) (i)

19. *Costs.*—(1) Where the Authority or the Courts, as the case may be directs that any costs shall not follow the event, he shall state his reasons for so doing in writing.

(2) The costs which may be awarded shall include:—

- (a) the charges necessarily incurred on account of court-fees;
- (b) the charges necessarily incurred on subsistence money to witnessess; and
- (c) Pleader's fees which shall ordinarily be Rs. 10 provided that the Authority or the Court, as the case may be in any proceedings, may reduce the fee to a sum not less than Rs. 5 or increase it to a sum not exceeding Rs. 30.

(3) When a party engages more pleaders than one to defend a case, he shall be allowed one set of costs only.

20. The Authority or the Court, as the case may be, may fix fees on the payment of which any person entitled to do so may obtain copies of any documents filed with the Authority or the Court, as the case may be;

Provided that the Authority or the Court, as the case may be, may, in consideration of the poverty of the applicant, grant copies free of cost.

Section 26 (3) (k)

21. *Fees.*—The fee payable in respect of proceedings under the Act shall be:—

(i) For every application to summon a witness.	Four annas in respect of each witness.
(ii) For every other application made by or on behalf of an individual persons before the Authority.	Eight annas.
(iii) For every other application made by or on behalf of an unpaid group before the Authority.	Four annas for each member of the group subject to a maximum of five rupees.

(iv) For every appeal lodged with the Court. Five rupees:

Provided that the Authority or the Court may, in consideration of the poverty of the applicant, reduce or remit this fee:

Provided further that no fee shall be chargeable in respect of an application presented by an Inspector.

Section 26 (3) (l)

22. *Abstracts.*—The abstracts of the Act and of the rules made thereunder to be displayed under section 25 shall be in Form V.

Section 26 (4)

23. *Penalties*.—Any breach of rules 3, 4, 5, 6, 8, 12, 15 and 18 of these rules shall be punishable with fine which may extend to two hundred rupees.

FORM I

Register of Fines

Factory/Industrial Establishment

FORM II

*Register of Deductions for damage or loss caused to the Employer, by the
neglect or default of the employed persons*

..... Factory/Industrial Establishment

Serial No.	Name	Father's name	Department	Damage or loss caused	Whether worker showed cause against deduction or not. If so, enter date	Date and amount of deduction imposed	Nos. of installments, if any	Date on which total amount realized	Remarks
1	2	3	4	5	6	7	8	9	10

FORM III

Register of Advances made to employed persons

.....Factory/Industrial Establishment

Serial No.	Name	Father's name	Department	Date and amount of advance made	Purpo- se (s) for which advance made	No. of instal- ments by which advance to be repaid	Post- pone- ments grant- ed	Dates on which total amount repaid	Remarks
1	2	3	4	5	6	7	8	9	10

FORM IV

Return for the year ending 31st December, 19 .

(Showing wages and deductions from wages)

1. (a) Name of the Factory or Industrial Establishment with complete postal address.....
 (b) Industry

2. Number of days worked during the year.....

3. (a) Average daily number of persons employed during the year.	Persons receiving less than Rs. 200	Persons receiving Rs. 200 and more but less than Rs. 400
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Adults.....

Children.....

(b) Gross amount paid as remuneration to persons getting less than Rs. 200, including deductions under section 7 (2) of which the amount due to profit sharing bonus is.....and that due to money value of concession is

(c) Gross amount paid as remuneration to persons getting Rs. 200 and more but less than Rs. 400 including deductions under section 7 (2).....of which the amount due to profit sharing is.....bonus is.....and that due to money value of concession.

4. Total wages paid including deductions under section 7 (2) on the following accounts:—

Persons receiving less than Rs. 200	Persons receiving Rs. 200 & more but less than Rs. 400
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(a) Basic wages including overtime wages and non-profit sharing bonus.

(b) Dearness and other allowances in cash.

(c) Arrears of pay in respect of previous year paid during the year.

5. Number of cases and amount realised as:—

Persons receiving less than Rs. 200	Persons receiving Rs. 200 & more but less than Rs. 400
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No. of cases.	Amount.	No. of cases.	Amount
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(a) Fines ..

(b) Deductions for damages or loss ..

(c) Deductions for breach of contract

6. Disbursement from the Fines Fund—

Purpose	Amount
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(a)

(b)

(c)

(d)

7. Balance of Fines Fund in hand at the end of the year, Rs.....

Note.—The average daily number of persons is obtained by dividing aggregate number of attendance during the year by the number of working days.

“Money value of concession should be obtained by taking the difference of the cost price paid by the employer and the actual price paid by the employees for supplies of essential commodities given free or at concessional rates”.

Date.....

*Signature.....
Designation.....*

FORM V

Abstract of the Payment of Wages Act, 1936 and the Rules made thereunder

WHOM THE ACT AFFECTS

1. The Act applies to the payment of wages to persons in this Factory/Industrial Establishment receiving less than Rs. 400 a month.

2. No employed person can give up by contract, or agreement, his rights under the Act.

DEFINITION OF WAGES

“Wages” means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

- (a) any remuneration payable under any award or settlement between the parties or order of a court;
- (b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
- (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
- (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force; but does not include—
 - (1) any bonus (whether under a scheme of profit-sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;
 - (2) the value of any house accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the Himachal Pradesh Administration;
 - (3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
 - (4) any travelling allowance or the value of any travelling concession;
 - (5) any sum paid to the employed person to defray special expenses entitled on him by the nature of his employment; or
 - (6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d).

RESPONSIBILITY FOR AND METHOD OF PAYMENT

4. The manager of the factory is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs.

5. Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage period (or within 10 days if 1,000 or more persons are employed).

The wages of a person discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

FINES AND DEDUCTIONS

8. No deductions shall be made from wages except those authorised under the Act (see paragraphs 9—15 below).

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Labour Commissioner, specify by a notice displayed at or near the main entrance of the factory and after giving the employed person an opportunity for explanation.

(2) Fines—

- (a) shall not exceed half-an-anna in the rupee;
- (b) shall not be recovered by instalments, or later than sixty days of the date of imposition;
- (c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as are approved by the Labour Officer;
- (d) shall not be imposed on a child.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working, and such deductions must not exceed an amount which is in the same proportion to his wages for the wage period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in contract, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but:—

- (1) no deduction for breaking a contract can be made from a person under 15 or a woman;
- (2) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice;
- (3) the above provisions must be displayed at or near the main entrance of the factory;
- (4) no deduction of this nature can be made until a notice that this deduction is to be made has been posted at or near the main entrance of the factory;
- (5) no deduction must exceed the wages of the employed person for the period by which the notice, he gives of leaving employment is less than the notice he should give under his contract.

11. Deduction can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer, provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorized by order of the Administration.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment but must not exceed the amount of two month's wages without the permission of an Inspector.

These advances can be recovered by instalments, spread over not more than 12 months and the instalments must not exceed 1/3rd, or if the wages are not more than Rs. 20, 1/4th of the wages for any wage-period.

14. Deductions can be made for subscription to and for repayment of advances from any recognised provident fund.

15. Deductions can be made for payments to co-operative societies approved by the Administration or to the postal insurance, subject to any conditions imposed by the Himachal Pradesh Administration.

INSPECTIONS

16. An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

COMPLAINTS OF DEDUCTIONS OF DELAYS

17. (1) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within 6 months to the Authority appointed by the Himachal Pradesh Administration for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

(3) A single application may be presented by, or on behalf of any number of persons belonging to the same factory the payment of whose wages has been delayed.

ACTION BY THE AUTHORITY

18. The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

APPEAL AGAINST THE AUTHORITY

19. An appeal in the prescribed form against a direction made by the Authority may be preferred within 30 days to the District Court,—

- (a) by the paymaster if the total amount directed to be paid exceeds Rs. 300;
- (b) by an employed person, if the total amount of wages withheld from him or his co-workers, exceeds Rs. 50;
- (c) by person directed to pay penalty for a malicious or vexatious application.

PUNISHMENT FOR BREACHES OF THE ACT

20. Any one delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine upto Rs. 500 but only if prosecuted with the sanction of the Authority or the appellate Court.

21. The Paymaster who,—

- (1) does not fix a wage-period; or
- (2) makes payments in kind; or
- (3) fails to display at or near the main entrance of the factory this Abstract in English and in the language of the majority of the employed persons; or
- (4) breaks certain rules made under the Act;

is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector, or with his sanction.

By order,
THAKUR SEN NEGI,
Secretary.